IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8217 OF 2007

John Misquitta & Others .. Petitioners

Vs.

Municipal Corporation for the City of Thane & Ors. .. Respondents

Mr.P.K.Dhakephalkar, Sr.Advocate for the petitioners

Mr.R.S.Apte with Mr.Vaibhav Patankar for respondent no.1 (a) to 1(c)

CORAM : J.N.PATEL &
SMT.NISHITA MHATRE, JJ.

DATED : 7TH DECEMBER, 2007

P.C.:

1. Heard.

2. The petitioners restrict the relief sought in the petition to prayer clause (d). It is the case of the petitioners that respondent no.2 Builder has obtained the development permission of the land belonging to the petitioner no.1's wife under the power of attorney which did not survive

after her death against which though the petitioners have made a representation to respondent no.1, respondent no.1 did not make necessary enquiry. They are yet to take an appropriate decision and, therefore, if this court directs respondent no.1 Corporation to take appropriate decision by the officers of respondent no.1 in respect of complaints filed by the petitioner that will subserve the purpose so that the petitioner is then free to seek alternate remedy available to him under the law.

3. We do not find that in the given facts and circumstances, respondent no.1 Corporation can have any objection in the matter being a statutory body and having issued a development permission dated 20.2.06 bearing V.P. No. 2005/98 to respondent no.2 builder. We also find that the petition can be disposed of without notice to respondent no.2 as it is needless to state that the respondent no.2 Corporation would definitely give an opportunity of hearing to respondent no.2 in the matter of grievance raised by the petitioner no.1 before respondent no.1. We therefore, dispose of this

petition in terms of prayer clause (d). This court expects respondent no.1 to take a decision in the matter within a period of 6 weeks. The petitioners to convey the order to respondent Corporation.

(J.N. PATEL, J)

(SMT.NISHITA MHATRE, J)